

Assembly Bill No. 164

Passed the Assembly August 30, 2002

Chief Clerk of the Assembly

Passed the Senate August 27, 2002

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to add and repeal Section 56509 of the Education Code, relating to special education.

LEGISLATIVE COUNSEL'S DIGEST

AB 164, Harman. Special education: alternative dispute resolution.

Existing law provides procedural safeguards, including due process hearings for the resolution of complaints regarding alleged violations of the Individuals with Disabilities Act. Existing law also authorizes parties to special education disputes to seek resolution through mediation prior to filing a request for a due process hearing.

This bill would require the State Department of Education to establish and administer a statewide program of grant funding, with specified components, to support special education local plan areas (SELPAs) in conducting alternative dispute resolution programs for resolving special education disputes. The bill would state the intent of the Legislature, subject to the availability of federal funds, to make \$300,000 available for purposes of the program, on an annual basis, would prescribe the allocation of funds under the program, and would require grant recipients to perform specified services related to alternative dispute resolution. The bill would prescribe other matters related to the grant program. The bill would become inoperative on July 1, 2008.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares as follows:

(1) The Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) encourages the use of mediation to resolve disputes between parents of children with disabilities and local education agencies.

(2) The only statewide mediation process available to parents and local education agencies is a prehearing mediation conference filed with the state or a mediation conference scheduled after a request for a due process hearing has been filed with the state.



(3) The number of requests for special education due process hearings and complaints filed by parents of children with disabilities against local education agencies have increased significantly in recent years.

(4) The costs of litigation, state level mediation, and investigation of complaints have likewise increased significantly in recent years.

(5) The current system of dispute resolution often results in adversarial relationships between parents and local education agencies, thereby affecting the provision of an appropriate education to children with disabilities.

(6) A limited number of special education local plan areas (SELPAs) have implemented an alternative dispute resolution process that has successfully resolved disputes at the local level, thereby reducing the amount and cost of litigation and complaint investigation at the state level.

(7) Parents of children with disabilities are entitled to other options for dispute resolution that develop lasting relationships and build trust.

(8) Through an alternative dispute resolution program, children with disabilities may be provided appropriate services.

(b) It is, therefore, the intent of the Legislature to do the following:

(1) To establish new options for alternative dispute resolution at the local level through coordination by the SELPA system or collaboration of multiple SELPAs.

(2) These new options not interfere with a parent's right to pursue other options at the state level, but work in conjunction with these options to provide a greater variety of options to the parent.

(3) A program be established with funding to support the development and implementation of alternative dispute resolution in each SELPA throughout the state.

SEC. 2. Section 56509 is added to the Education Code, to read:

56509. (a) The State Department of Education shall establish and administer a statewide program of grant funding to establish alternative dispute resolution programs for special education that includes the following:



(1) An advisory board that includes representatives from local alternative dispute resolution projects to ensure ongoing communication.

(2) An annual planning and training conference for new implementers of alternative dispute resolution programs.

(3) An annual statewide conference for all implementers of alternative dispute resolution programs.

(4) Criteria for awarding grants, funding, data collections, and evaluating alternative dispute resolution projects.

(5) The selection of recipients and allocation of funding.

(6) The selection of individuals to serve as mentors to support implementers.

(b) It is the intent of the Legislature that the State Department of Education shall be funded only from federal funds at three hundred thousand dollars (\$300,000) annually, as adjusted annually by the cost of living, to carry out its responsibilities under subdivision (a).

(c) Subject to the availability of federal funding for this purpose, funding for grant recipients shall be at the following levels:

(1) SELPAs and multi-SELPA applicants selected by the State Department of Education shall receive fifty thousand dollars (\$50,000) annually, as adjusted annually by the cost of living, for a period not to exceed three years for initial implementation purposes.

(2) SELPAs and multi-SELPA applicants that continue to implement alternative dispute resolution programs after the initial three years shall receive ongoing funding at twenty-five thousand dollars (\$25,000) annually plus twenty-five cents (\$0.25) per average daily attendance, as adjusted annually by the cost of living and as recommended by the State Department of Education for ongoing program maintenance.

(d) SELPAs and multi-SELPA collaboratives receiving funding under this section shall provide the following services:

(1) Intake coordination and parent outreach.

(2) Prevention activities.

(3) Formal dispute resolution activities.

(4) Training of parents and local education agency staff.

(5) Data collection.



(6) Narrative reports of alternative dispute resolution training and other activities.

(7) Expenditure reports.

(8) Evaluation activities.

(9) Participation in annual planning and implementation conferences.

(e) The State Department of Education shall administer a mentorship program that identifies individuals whose responsibility is to provide support to implementers. These individuals shall be responsible for the following activities:

(1) Participation on the alternative dispute resolution advisory board.

(2) Participation in the planning and implementation of quarterly meetings with assigned implementers.

(3) Participation in the planning and implementation of the annual statewide alternative dispute resolution conference.

(4) Participation in the planning and implementation of the annual alternative dispute resolution planning conference.

(5) A quarterly report of activities to the State Department of Education.

(6) Consultation, training, and other technical assistance to support the State Department of Education and SELPAs to implement the provisions of this chapter.

(7) Contracting with individuals to mentor planning and implementing.

(f) The State Department of Education shall select grant recipients from the northern, southern, and central regions of the state, from urban, rural, and suburban areas, so that the recipients are broadly representative of the state.

(g) Alternative dispute resolution programs conducted pursuant to this section shall be coordinated with, and to the extent feasible, operated through, the Family Empowerment Centers on Disability established by Chapter 4.3 (commencing with Section 56400).

(h) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.



Approved _____, 2002

Governor

